

Application Serial No. 10/649,445  
Preliminary Amendment to RCE dated February 10, 2006

CM06341J

### **REMARKS/ARGUMENTS**

The claims have been amended, without prejudice or disclaimer, by rewriting claims 1, 2, 6, 12, 14 and 19 and canceling claims 7, 8, 21 and 22. Claims 1-6, and 9-19 remain in the application. Reconsideration of this application is respectfully requested.

#### **Claim Rejection - 35 U.S.C. § 102:**

*Claims 12 and 14 rejected under 35 U.S.C. § 102 (b) as being anticipated by Vapaakoski et al, US Patent Number 6,164,547.*

Applicant has amended independent claims 12 and 14 similarly to claims 1, 2 and 6 to include the recitation that the restricting of operation of the peripheral device(s) is determined solely by the communication device. Claims 12 and 14 have been further amended to address the response on page 6 of the Office Action dated November 29, 2005 where the Examiner stated "restricting operation" would be broadly interpreted as allowing the peripheral device(s) to function or not function. Claims 12 and 14 have been further amended to more clearly emphasize the intrinsic safety aspect of Applicant's invention. No new matter has been added.

Claim 12 now recites: "the communication device restricting the plurality of peripheral devices to various predetermined levels of operation in response to the communication device type certification parameters and the peripheral device type certification parameters being mismatched as determined solely by the communication device to provide an intrinsically safe operating system, wherein the various predetermined levels of operation are restricted based on the context of the mismatch." Claim 14 now recites "selectively restricting, solely by the communication device, the operation of the plurality of peripheral devices to predetermined levels based on intrinsic compatibility in order to provide an intrinsically safe communication system."

Claims 12 and 14, as amended, are believed to overcome the rejection.

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**Claim Rejections - 35 U.S.C. § 103:**

*Claims 1-11, 13 and 15-22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Vapaakoski in view of Kenton et al., US Patent Number 6,272,560.*

Neither reference taken individually or combined teaches an intrinsically safe operating system as claimed by Applicant's invention in claims 1, 2 and 6, as amended. Neither reference taken individually or combined teaches storing certification parameters. Claim 1 recites "...the peripheral device having peripheral device type certification parameters stored therein" and claims 2 and 6 include the step of "storing peripheral type certification parameters within a peripheral device." To further distinguish these type certifications, claims 1, 2 and 6 have further been amended to recite "the communication device type certification parameters and the peripheral device type certification parameters comprising intrinsic safety information". No new matter has been added. Support for this amendment is found throughout the specification. The peripheral device of Kenton does not store certification parameters comprising intrinsic safety information but rather disk identification information e.g. vendor ID and product ID (col. 3, lines 63-67). Claim 1, as amended, further recites "...the communication device restricting the level of operation of the peripheral device when the communication device type certification parameters and peripheral device type certification parameters are intrinsically incompatible, based solely on a reading initiated by the communication device, to provide an intrinsically safe operating system." The peripheral device of Kenton comprises a disk or tape that gets read by Kenton's operating system. Applicant's invention, as claimed, restricts operation based on intrinsically safe type certification, not functional compatibility. For example: With Kenton, Disk A is functionally compatible with OS and will work. Disk B is not functionally compatible

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with OS and will not work, where functionally compatible means logically and physically compatible. With Applicant's invention, for example, Microphone A and Microphone B may both be functionally compatible with a radio, but Mic A will work because its type certifications match and Mic B will not work because its type certifications do not match. In other words, Mic B *could* work but the invention artificially restricts it. This is in contrast to Kenton, where disk B does not work because it is not functionally compatible with the system. Or put simply, Disk B can't work with the system.

Claim 6 has been also been amended to include the step of "varying the level of operation of the radio and the peripheral device based on the intrinsically safe compatibility to ensure intrinsically safe operation of the radio in conjunction with the peripheral device". Neither reference taken individually or combined varies the level of operation. Neither reference taken individually or combined varies the level of operation to ensure intrinsically safe operation.

In the rejection of claims 5, 13 and 15, the Examiner took official notice that it is well known in the art to attach a battery to a communication device in order to power the device and further stated that it would be obvious that the battery would need to be compatible with the communication device in order for it to work (page 4, Office Action dated November 29, 2005). Applicant respectfully points out that the fact that the battery (or battery powered accessory) would operate with the communication device is the very problem which is being addressed by this application. As stated in the Background page 1, lines 20-24 "... a user could assemble a portable communication device using both type-certified and non-certified components. For example, a Factory Mutual (FM) approved radio may be mated to a mechanically and electrically compatible radio battery that is not FM-approved. Such configuration puts the user at risk, and the user may not be aware that an improper configuration has been put together."

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Claims 1, 2 and 6, as amended and dependent claims 5, 13 and 15 are thus believed to be in condition for allowance. The remaining claims 3, 4, 9-11, 14, and 16-20 are dependent claims providing further limitations to what are believed to be allowable claims and hence are also in condition for allowance.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless Applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

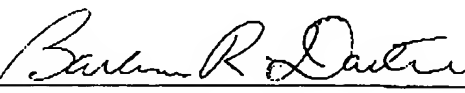
The Applicants believe that the subject application, as amended, is in condition for allowance. Such action is earnestly solicited by the Applicants.

In the event that the Examiner deems the present application non-allowable, it is requested that the Examiner telephone the Applicant's attorney or agent at the number indicated below so that the prosecution of the present case may be advanced by the clarification of any continuing rejection.

The Commissioner is hereby authorized to charge Deposit Account 502117, Motorola, Inc, with any fees which may be required in the prosecution of this application

Respectfully submitted,

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Motorola, Inc.  
Customer Number: 24273

By:   
Barbara R. Dautre  
Attorney of Record  
Reg. No.: 39,505  
Telephone: 954-723-6449  
Fax No.: 954-723-3871  
E-Mail: Barbara.Dautre@motorola.com